

March 21, 2013

Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Room TW-B204
Washington, DC 20554

Re: FCC Proceeding, 12-375, "Wright Petition"

Dear Commissioners and Staff,

On behalf of Community Initiatives for Visiting Immigrants in Confinement (CIVIC), we urge you to set a benchmark rate on interstate, long distance phone calls from prisons, county jails, and for-profit prisons. CIVIC is a national network of independent community visitation programs working to end the isolation of men and women in U.S. civil immigration detention. CIVIC has launched a national "Campaign for Phone Justice for Immigrants in Detention" in alliance with the "Campaign for Prison Phone Justice." In setting a benchmark rate on interstate phone calls, the FCC will be taking the first step toward reasonable phone rates for people in civil immigration detention.

There are 2.7 million children who have one or both parents incarcerated, and for most families of prisoners, a phone call is the only way they can stay in touch. Moreover, there are more than 400,000 men and women held in U.S. civil immigration detention each year. Reasonable phone rates are particularly vital to people in immigration detention not only in terms of maintaining contact with their families, but also in terms of securing evidence, witnesses, and human rights reports to defend against deportation proceedings and to support asylum applications.

- A. Telephone service providers offer lucrative kickbacks to all immigration detention facilities, resulting in inflated phone rates.

As you know, the prison phone industry is based on a monopolistic model in which companies bid on contracts to provide phone services for individual detention facilities or entire prison or jail systems. As an incentive to obtain these lucrative contracts, prison phone companies provide "commissions," commonly referred to as kickbacks, to the contracting agency. These kickbacks, which range up to 60% of gross prison phone revenue, result in inflated phone rates. Currently, only eight states and the District of Columbia have outlawed state prison phone kickbacks: California, New Mexico, Nebraska, Missouri, Michigan, Rhode Island, New York, and South Carolina. However, these states still permit county jails and private prisons to accept kickbacks. As immigrants are detained in county jails and private prisons, telephone service providers continue to offer lucrative kickbacks to all immigration detention facilities.

Therefore, CIVIC urges the FCC to set a benchmark rate on interstate phone calls to reduce the financial burden on families and immigrant rights advocates who have friends and loved ones in immigration detention. While setting a benchmark rate on interstate phone calls will not reduce the rate of intrastate phone calls, CIVIC urges the FCC to take this first step in reducing the cost of phone calls in immigration detention.

- B. A Case Study: California state legislation banning kickbacks to state prisons fails to protect immigrants in detention and prisoners realigned to county jails.

In California where CIVIC is based, state legislation, SB 81, passed in 2007, outlawed kickbacks to state prisons, effectively reducing phone call rates. However, this protective legislation does not apply to county jails or private immigration detention facilities in California.

Moreover, due to California's "realignment" plan in response to *Brown v. Plata*, 131 S. Ct. 1910 (2011), the number of people held in county jails and for-profit prisons has increased. California state prison

realignment, or AB 109, was signed into law by Gov. Jerry Brown in April 2011 and went into effect in October 2011. The legislation “realigns” from the state to the local level responsibility for supervising people convicted of “non-serious, non-violent, and non-sex related” felony crimes. This means that thousands of people convicted for such crimes face jail time with high phone rates, while before they would have been eligible for state prison and lower phone rates. The families of detained immigrants and people convicted of low level crimes in California continue to bear the burden of exorbitant phone call rates that enable counties, private detention facilities, and telephone service providers to profit.

By setting a benchmark rate on interstate phones calls, the FCC will be ensuring that whether a person in California is held in a state prison, a county jail, or a for-profit prison, all incarcerated individuals will pay the same rate for interstate phone calls. CIVIC welcomes this much-needed change in California.

- (i) A Case Study: Contra Costa County, California, received a total of \$653,506 in commission payments from Global Tel*Link in 2011-2012.

Contra Costa County, California, contracts exclusively with Global Tel* Link (GTL) to provide telephone services at the West County Detention Facility, the Marsh Creek Detention Facility, the Martinez Detention Facility, and two youth facilities (Juvenile Hall and the Orin Allen Youth Rehabilitation Facility). In addition to people convicted of crimes and “realigned” to county jails, the West County Detention Facility and the Martinez Detention Facility contract with the federal government to hold civil immigrant detainees who are fighting their removal cases.

The only way to make a call out of these facilities is if the family members of inmates, immigrants detained by ICE, and/or detained youth set up an account with GTL. Family members across California report to CIVIC that GTL will not disclose the rates of phone calls until after accounts are activated with a mandatory payment. Only when family members are abruptly cut off from a phone conversation with their imprisoned loved one do they learn what little phone time their payment buys. With 108 county jails in 58 counties in California, countless vulnerable communities lack protection against predatory phone rates.

CIVIC called GTL 6 different times at 1-877-650-4249 to confirm the accuracy of these reports. The first five times, GTL said that they were not permitted to disclose the rates until after we paid the mandatory \$25.00 payment to open an account. On March 25, 2013—the sixth time we called GTL—we were told that we had to pay \$25.00 and that the system would charge us a fee of \$4.75 each time we made a deposit on the account. The \$4.75 fee would be deducted from the \$25.00 we deposit on the account. We also were told that if we received a call from the West County Detention Facility in Contra Costa County, California, we would be charged \$2.82 plus 18¢ per minute.

This rate disclosure from GTL contradicts information CIVIC obtained on February 11, 2013, from a California Public Record Act request, which shows the calling rates for the West County Detention Facility and two other county jails as well as Juvenile Hall and the Orin Allen Youth Rehabilitation Center in Contra Costa County (See Appendix A). At the West County Detention Facility, intrastate calls cost \$3.25 for the first minute and an additional .25¢ for each subsequent minute. Interstate calls cost \$3.55 for the first minute and an additional .55¢ for each subsequent minute. Contra Costa County’s exclusive contract with GTL was rewarded by an initial payment of \$75,000 within 50 days of the signed contract. Contra Costa County is paid a 57% commission rate on all GTL inmate account calls. For example, a 20 minute interstate call costs the families of inmates or immigration detainees \$14.00. If the call is dropped, the price will increase because the family will have to pay for the additional connection fee. With the 57% commission rate, Contra Costa County receives \$7.98 of that inflated price. For fiscal year 2011-12, Contra Costa County received a total of \$653,506 in commission payments from GTL.

CIVIC urges the FCC to set benchmark rates on interstate phone calls from all state prisons, county jails, and for-profit prisons so that families will know exactly how much they are going to have to pay for an interstate phone call before accepting the call or opening an account and companies like GTL will not be able to provide inaccurate data to customers.

- C. ICE transfers people in immigration detention from facility to facility, and phone cards purchased at one facility may not be available for use at another facility.

According to a Human Rights Watch report, “A Costly Move,” ICE transfers people in immigration detention, often more than once and sometimes out of state (2011). Specifically, Human Rights Watch found that between 1998 and 2010, 40 percent of all immigration detainees were transferred at least once, and 46 percent of those were transferred at least twice. About 3,400 were transferred at least 10 times, and one person was moved 66 times during 13 months in 2008 to 2009.

Many immigrants who are detained report that when they are transferred, the funds paid toward phone cards or phone accounts purchased with one telephone service provider may be lost if they are transferred to a facility that contracts with a different telephone service provider. However, transfers between different facilities are not the only situations in which different telephone service providers are a problem for immigrants who are detained. According to Detention Watch Network’s “Expose and Close” report, at the Polk County Detention Facility in Livingston, Texas, men complained that phones in one wing of the facility charge a higher per minute rate compared to phones in another wing of the facility (2012). This lack of uniformity was the result of the Polk County Detention Facility contracting with two different phone companies. In addition, if men are transferred from one side of the facility to another, they will not be able to use any funds paid to the original telephone service provider.

While the FCC has no control over immigration detention transfers, setting a benchmark rate on the price of phone calls will reduce the financial burden on families when their loved one is transferred to a new immigration detention facility. Moreover, a benchmark rate on interstate phone calls will increase the chances that a person in immigration detention will have the required funds to call loved ones or attorneys and notify them of the person’s new location.

- D. High phone rates inhibit legal proceedings.

Most immigrants detained in the Polk County Detention Facility and at the other 250 ICE-contracted facilities have active deportation proceedings going forward or have filed an application for asylum and other forms of relief from removal, yet they have no right to free counsel in such proceedings. In fact, about eighty-four percent of all detained immigrants must represent themselves because they cannot afford private defense lawyers. Thus, the majority of immigrants in detention have to defend themselves in court, and adequate telephone access is imperative to doing so effectively.

All of the legal defenses that exist in immigration court become illusory without telephone access. For example, an applicant for political asylum who fears torture or persecution in her home country must provide corroborating evidence to substantiate her claims. She must obtain letters from family members and witnesses, human rights reports, birth certificates, and court records. Telephone access is vital to this process, and if phone calls are cost prohibitive, the person seeking asylum risks being deported to a country where her life is in danger. She must spend hours on the telephone making calls to gather evidence, contacting human rights agencies for relevant documentation, and communicating with the court and opposing counsel. Other immigration proceedings, such as U visas for victims of crimes, T visas for victims of human trafficking, claims of U.S. citizenship and Cancellation of Removal for Lawful Permanent Residents, all require similar corroborating evidence that can only be obtained through adequate telephone access.

- E. High phone rates prohibit immigrant rights advocates from effectively and efficiently supporting their constituents.

Many advocates for immigrants in detention in CIVIC’s network and beyond are inhibited from supporting their constituents due to the high cost of phone calls. Many CIVIC-affiliated groups fundraise to supply funds for exorbitantly priced phone cards. Other groups operate volunteer-run hotlines to answer calls from immigrants who are detained who cannot afford to get in touch with their families directly, while other advocates in CIVIC’s network incur the cost of calls themselves.

For example, Rev. John Guttermann, the lead for Conversations with Friends, an Immigration and Customs Enforcement (ICE) approved immigration detention visitation program operating at the Ramsey County Jail in St. Paul, Minnesota, has incurred the cost of calls to support an immigrant in detention. Rev. Guttermann agreed to receive a call from a person in immigration detention at another ICE-contracted detention facility in Minnesota. The man in detention wanted to tell Rev. Guttermann his story of abuse at this other facility and also to arrange for John to visit him in person. During a three-week period, John took an estimated six calls from the client, each requiring that he agree to take the call and pay for it by providing his credit card information. Each call lasted about 15 minutes and cost about \$15. The estimated total for all calls was \$90.

CIVIC urges the FCC to take action and cap the cost of interstate calls from prisons and detention centers. As advocates, our ability to support people in immigration detention is dependant upon our ability to communicate with them. The high cost of phone calls severely limits our capacity not only to serve people in immigration detention effectively, but also to serve greater numbers of people in immigration detention.

F. High phone rates unnecessarily burden family stability.

Simply locating a loved one in the immigration detention system can take days or even months for some families because immigrants in detention are not afforded a free phone call, as is customary in the criminal justice system. As a result, thousands lack any way of quickly connecting with their families or finding out whether their children are safe.

Moreover, immigrants in detention who are separated from their families due to their imprisonment also risk losing custody of their children without a means to communicate with the outside world. Many families are torn apart by immigration detention and children of detained immigrants are often taken into the custody of the state when their parents disappear into the immigration detention system. As phone calls are prohibitively costly, parents in immigration detention cannot communicate with child welfare agencies that have taken custody of their children or family courts that have the authority to decide whether families may remain together. Also, many detention facilities, such as the West County Detention Facility in Contra Costa County, California, have visitation policies that require communicating over the phone in order to schedule visits with loved ones. Since so many families cannot afford the high cost of phone calls, they are not able to remain in contact at all, either over the phone or in person.

On behalf of CIVIC, we thank you for releasing the Wright Petition for a Notice of Proposed Rulemaking. We respectfully request that the FCC initiate a rulemaking on the Wright Petition to cap all interstate calling services at no higher than \$0.20 per minute for debit calling and \$0.25 per minute for collect calling. Thank you for your time and attention to this important concern for our families and our communities across the United States.

Sincerely,



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